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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,524	12/27/2004	Zhanguo Li	EIPS 1031489	2480
27111	7590	12/13/2006	EXAMINER	
GORDON & REES LLP 101 WEST BROADWAY SUITE 1600 SAN DIEGO, CA 92101			RUSSEL, JEFFREY E	
			ART UNIT	PAPER NUMBER
			1654	

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/519,524

Applicant(s)

LI, ZHANGUO

Examiner

Jeffrey E. Russel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 11-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The Sequence Listing filed October 24, 2006 is not approved. Applicant submitted the sequence listing on two compact disks; however, neither disk was labeled as the computer readable form, and there was no "copy 3" disk, and therefore STIC did not review either of the disks for compliance with 37 CFR 1.821(a)-(e). Also, because Applicant submitted a copy of the sequence listing in both paper form and in compact disk form, it is unclear which form was intended to constitute the sequence listing required by 37 CFR 1.823(a). Further, even had STIC reviewed the disks for compliance, the disks would not have been approved. Firstly, the disks use single letter amino acid codes, whereas 3-letter codes are required by 37 CFR 1.822(d). Secondly, either there is a significant alignment issue, or there is no amino acid sequence at the end of each sequence entry in the Sequence Listing. Thirdly, the sequence listing uses headings such as "PreSequenceString" with which the examiner is completely unfamiliar. Fourthly, to the extent that Applicant intended to submit the paper copy of the Sequence Listing in compact disk form, no amendment to the specification was made as is required by 37 CFR 1.823(a)(2). Finally, the examiner wishes to emphasize that the above issues are based upon a cursory review of the sequence listing appearing on the compact disks. The examiner is not an expert on the format requirements of sequence listing requirements, and the examiner expects that numerous other errors would be identified by STIC when they receive a computer readable form of the sequence listing which they can review. While not required, the use of the PatentIn program to prepare sequence listings is recommended.
2. In the amendment to the claims filed October 24, 2006, "sequence of" was changed to "sequences" in claim 11 without the changes being marked as required by 37 CFR 1.121(c).

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Any future amendments should be carefully checked to ensure compliance with the amendment rules.

3. This application is in condition for allowance except for the following formal matters:

A. This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the following reasons:

A Sequence Listing is required which includes SEQ ID NOS:8-10 as defined in the amendments to the specification filed October 24, 2006.

Applicant must provide a substitute computer readable form (CRF) copy of the Sequence Listing, a substitute paper copy of the Sequence Listing as well as an amendment directing its entry into the specification, and a statement that the content of the paper and computer readable copies are the same and include no new matter as required by 37 CFR 1.825(a) and (b).

B. Receipt is acknowledged of papers filed under 35 U.S.C. 119(a)-(d) based on an application filed in China on June 27, 2002. Applicant has not complied with the requirements of 37 CFR 1.63(c), since the oath, declaration or application data sheet does not acknowledge the filing of any foreign application. A new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date.

Applicant should also file a claim for such priority as required by 35 U.S.C. 119(b). If the application being examined is an original application filed under 35 U.S.C. 111(a) (other than a design application) on or after November 29, 2000, the claim for priority must be presented

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during the pendency of the application, and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application.

See 37 CFR 1.55(a)(1)(i). If the application being examined has entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the claim for priority must be made during the pendency of the application and within the time limit set forth in the PCT and Regulations of the PCT. See 37 CFR 1.55(a)(1)(ii). Any claim for priority under 35 U.S.C. 119(a)-(d) or (f) or 365(a) or (b) not presented within the time period set forth in 37 CFR 1.55(a)(1) is considered to have been waived. If a claim for foreign priority is presented after the time period set forth in 37 CFR 1.55(a)(1), the claim may be accepted if the claim properly identifies the prior foreign application and is accompanied by a grantable petition to accept an unintentionally delayed claim for priority. See 37 CFR 1.55(c).

The Application Data Sheet (ADS) filed October 24, 2006 is acknowledged. However, the application number given for the foreign priority document is incorrect, and therefore the requirement set forth above has not been satisfied.

C. The disclosure is objected to because of the following informalities: At page 2, line 36, of the specification, it is believed that “dimmer” should be changed to “dimer”. Appropriate correction is required.

Applicant did not respond to this objection in the amendment filed October 24, 2006.

D. Claims 11-16 are objected to because of the following informalities: At claim 11, line 2, “sequences” should be changed to “sequence”. Appropriate correction is required.

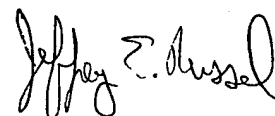
Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

4. Claims 11-16 would be allowable if rewritten or amended to overcome the claim objection set forth in this Office action. The prior art of record does not teach or suggest peptides as defined in instant claim 11. Accordingly, compositions comprising the peptide and methods of using the peptide are also novel and unobvious over the prior art of record or any combination thereof.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey E. Russel at telephone number (571) 272-0969. The examiner can normally be reached on Monday-Thursday from 8:00 A.M. to 5:30 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Cecilia Tsang can be reached at (571) 272-0562. The fax number for formal communications to be entered into the record is (571) 273-8300; for informal communications such as proposed amendments, the fax number (571) 273-0969 can be used. The telephone number for the Technology Center 1600 receptionist is (571) 272-1600.



Jeffrey E. Russel
Primary Patent Examiner
Art Unit 1654

JRussel
December 8, 2006